

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE ESTATE OF LORETTE JOLLES SHEFNER
by and through its executors Mr. Barry Shefner, Ms.
Ariela Braun, and Mr. Leon Miller,

Plaintiff,

-against-

MAURICE TUCHMAN, ESTI DUNOW, the
GALERIE CAZEAU-BÉRAUDIÈRE, the
NATIONAL GALLERY OF ART, LONTREL
TRADING, and JOHN DOES 1-10.

X : Case No. 08 CIV 4443
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: DECLARATION OF
: BARRY SHEFNER
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MR. BARRY SHEFNER, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a duly appointed Executor of the Estate of Ms. Lorette Jolles Shefner and submit this Declaration in opposition to the motion to dismiss submitted by the National Gallery of Art (the “NGA”) in the above captioned matter.
2. I make this Declaration on the basis of my own personal knowledge as to the truth of the facts asserted herein.
3. On or about June 20, 2007, the Estate contacted the NGA concerning its claim to the Painting. The NGA, through its counsel, Ms. Elizabeth Croog, called the Estate on or about June 21, 2007, leaving a voice mail and requesting a return call. I returned her call on June 22, and discussed with her the circumstances surrounding the Estate’s claim and the NGA’s acquisition of the Painting. During that call, Ms. Croog indicated that the NGA’s provenance information for the Painting was incomplete, and she asked if I would fill the gap between my mother, Ms. Lorette Jolles Shefner, and the

NGA. She also asked for me to identify myself as an executor for the Estate, and send her a list of the information the Estate was seeking in regard to its claim.

4. I then sent Ms. Croog a letter by fax, providing her with the information she requested and attaching a marked-up copy of the provenance page for the Painting from the Tuchman/Dunow *Catalogue Raisonné*. A true and accurate copy of that letter and the relevant *Catalogue Raisonné* page are attached hereto as Exhibit A.

5. As is clear from the mark-up and fax ID line (which indicates a French-language fax sent to a Washington, D.C. number), the *Catalogue Raisonné* page attached to Ms. Normand's moving declaration is a copy of the very page I sent to Ms. Croog in response for her request for provenance information for the Painting.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: August 12, 2008
Montreal, Canada

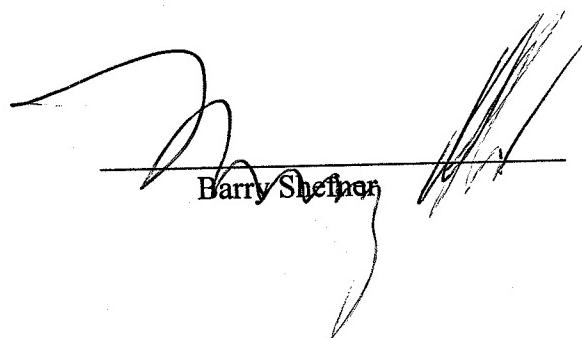

Barry Sherman

Exhibit A

*** BY FAX ***

Barry Shefner
470 Stanstead Ave
Mount Royal, Quebec Canada H3R 1X6
Tel 514-737-7791 Fax 514 648-4604

Montreal, June 22nd, 2007

Elizabeth A. Croog, Secretary and General Counsel,
Office of the Deputy Director
National Gallery Art
2000B South Club Drive
Landover, MD 20785

**RE: Chaim Soutine "Piece of Beef" Oil and Canvas Assession #2004.126.1
(the "Work")**

Dear Ms. Croog,

Further to our phone conversation this afternoon, I am an executor of the estate of Lorette Jolles Shefner/Szefner.

The information/ documentation that we would require from you is as follows:

- The name of the actual seller of the work to the National Gallery of Art/Chester Dale Fund [NGA].
- By whom and when contact with the NGA was first established by the seller or their agent.
- The total amount paid for the work by the National Gallery of Art/Chester Dale Fund and to whom payment was effected.
- The Contract of Sale and any documents showing specific terms and conditions, including seller's warranties and representations of condition, authenticity, provenance and title.
- Who represented the seller (attorney and other).
- Bill of sale and any other documentation showing the transfer of title and the painting.
- Shipping documents, including bills of lading and receipts.
- Insurance certificates and policies (such insuring the work during shipping and thereafter, such as at the NGA);

As discussed, I am also attaching for your reference the Provenance for the painting as per the Catalogue Raisonee by Tuchman/Dunow/Perls Vol 1 P470 #99.

Sincerely,

Mr. Barry Shefner
Executor for the Estate of Lorette Jolles Shefner/Szefner

97
Side of Beef
 Pièce de bœuf
 Rinderhälfte

c. 1922–1923
 Oil on canvas, 69,9 x 52,1 cm
 (27 1/2 x 20 1/2 in.)
 Signature, l.l. »Soutine«

PROVENANCE
The Barnes Foundation, Merion Station, Pennsylvania (1923 / –)
Henri Bing, Paris
Valentine Gallery, New York
Mrs. Lloyd Bruce Westcott, Clinton, New Jersey
The Colin Collection, New York (by 1950 / –)

EXHIBITIONS
 Paris, Paul Guillaume, group, 1923. (?)
 New York, Valentine Gallery, February 3–22, 1936, no. 14. (?)
 New York, Museum of Modern Art and Cleveland Museum of Art, 1950–1951, p. 112, listed; p. 68, comm.; p. 66, repr.
 Florida, Palm Beach, Society of the Four Arts, 1952, no. 15.
 Chicago, Arts Club, 1956, no. 51.
 New York, M. Knoedler and Co., »The Colin Collection«, April 12–May 14, 1960, no. 82, repr.
 London, Tate Gallery and Edinburgh Arts Festival, 1963, no. 23; p. 21, comm.
 New York, Marlborough Gallery, 1973, no. 30, repr.
 Münster, Westfälisches Landesmuseum und Tübingen, London, 1981–1982, no. 16; pp. 82, 84, comm. (Dunow); pp. 108–109, comm. (Güse); fig. 49, repr.; repr. color. [English ed.] [Not exhibited in Lucerne]

REFERENCES
 Sayre, A.H. *Art News*, February 8, 1936, p. 5, comm. (?)
 Szittya, E. *Soutine et son temps*, 1955, p. 65, fn. 2, comm.
 Forge, A. *Soutine*, 1965, no. 20, comm., repr. color.
 Courthion, P. *Soutine. Peintre du déchirant*, 1972, p. 73, comm.; p. 72, repr. color; p. 242C, repr.
 Cogniat, R. *Soutine*, 1973, p. 34, repr. color.
 Werner, A. *Chaim Soutine*, 1977, p. 48, fig. 52, repr.
 Exhibition catalogue. New York, Galleri Bellman, 1983–1984, p. 23, comm. (Güse).
 Güse, E.-G. *Die Kunst*, December 1983, p. 837, no. 2, repr. color.
 Exhibition catalogue. Milan, Galleria Bergamini, 1987, repr.

98
Side of Beef and Calf's Head
 Bœuf et tête de veau
 Rinderhälfte und Kalbskopf

c. 1923
 Oil on canvas, 92,1 x 73 cm
 (36 1/4 x 28 3/4 in.)
 Signature, l.r. »C. Soutine«

PROVENANCE
Paul Guillaume, Paris
Mme. Jean Walter, Paris (– 1963)
Musée de l'Orangerie, Paris. Collection Jean Walter et Paul Guillaume (1963 / –)

EXHIBITIONS
 Paris, Galerie Bernheim-Jeune, group, 1929. (?)
 Venice, XXVI Biennal, 1952, no. 28.
 Paris, Galerie Charpentier, 1959, no. 45.
 London, Tate Gallery, 1963, no. 28; pp. 21–22, comm.; pl. 18, repr.
 Paris, Orangerie des Tuilleries, group, 1966, no. 131, comm., repr.
 Paris, Musée Jacquemart-André, »La Ruche et Montparnasse, 1902–1930«, December 22, 1978–April 1, 1979, no. 125, comm.
 Münster, Westfälisches Landesmuseum, 1981–1982, no. 15; p. 44, comm. (Sylvester); p. 84, comm. (Dunow); pp. 108, 109, comm. (Güse); fig. 50, repr. [English ed.] [Exhibited in Munster only]
 Musée de Chartres, 1989, no. 44, comm., repr. color.

REFERENCES
 Arcangeli, F. *Paragone*, September 1952, p. 63, comm.; pl. 30, repr.
 Sylvester, D. *Art News*, October 1963, pp. 23, 24, comm.; p. 25, no. 12, repr.
 Exhibition catalogue. Paris, M. Knoedler et Cie., »L'Héritage de Delacroix«, June 1964, comm.
 Forge, A. *Soutine*, 1965, no. 24, comm., repr. color.
 Courthion, P. *Soutine. Peintre du déchirant*, 1972, p. 242A, repr.
 Warnod, J. *La Ruche et Montparnasse*, 1978, p. 99, repr.
 Exhibition catalogue. New York, Galleri Bellman, 1983–1984, p. 23, comm. (Güse).
 Musée de l'Orangerie, Paris. *Collection Jean Walter et Paul Guillaume*, 1984, (2 ed. 1987, 3 ed. 1990), no. 120, comm., repr. color.

99
Piece of Beef
 Le bœuf
 Rind

c. 1923
 Oil on canvas, 81,6 x 60 cm
 (32 1/8 x 23 5/8 in.)
 Signature, l.r. »Soutine«

PROVENANCE
Paul Guillaume, Paris
Jos. Hessel, Paris
Duncan MacDonald
Eardley Knollys, London (by 1945 / –)
Alex Reid and Lefevre, Ltd., London
Georges Keller, New York – Davos, Switzerland (by 1952 / 1973) [On extended loan to Kunstmuseum Bern, 1952–1973]
Modarco Advisory Service, Geneva, Switzerland (December 1, 1973 / November 1974)
Knoedler-Modarco, S.A., New York (November 1978 / October 1979)
Cosmondia S.A., Geneva, Switzerland (October 1979 / –)
Galerie Heyraud Bresson, Paris (– / April 1981)
Daniel and Lorette Sheffner, Quebec, Canada (April 1981 / –)
Lorette Sheffner, Quebec, Canada

AUCTIONS
 Paris, Palais Galliera, December 1, 1977, lot 50, repr. color.

EXHIBITIONS
 London, Storrer Gallery, 1938, no. 11.
 London, Lefevre Gallery, »School of Picasso and his contemporaries«, May–June 1945, no. 41.
 London, Gimpel Fils, 1947, no. 13.

REFERENCES
 Exhibition catalogue. London, Tate Gallery and Edinburgh Arts Festival 1963, p. 21, comm.
 Courthion, P. *Soutine. Peintre du déchirant*, 1972, p. 238B, repr.